STATE OF IOWA

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

JOHN N. TAYLOR, SR., Appellant, and STATE OF IOWA (DEPARTMENT OF EMPLOYMENT SERVICES), Appellee.	CASE NO. 92-MA-08

DECISION ON APPEAL

This matter is before us on a petition for review of a proposed decision and order issued by an administrative law judge (ALJ) of the Public Employment Relations Board (PERB or Board) in which the ALJ proposed dismissal of a state employee grievance appeal filed by Taylor pursuant to Iowa Code section 19A.14(1) and 621-I.A.C. 11.2(19A,20). In his grievance appeal, Taylor alleged that the state failed to substantially comply with sections 19A.9(1), (13), (14) and (20) of the Iowa Code, and with Iowa Department of Personnel (IDOP) rules 581-12.1 et seq. in connection with a 1991 reduction in force which ultimately resulted in Taylor's loss of his position as a Iowa Department of Employment Services (DES) Job Service Manager. The ALJ determined that Taylor failed to establish the state's lack of substantial compliance with these chapter 19A and IDOP rule provisions. Taylor filed a timely petition for review of the ALJ's proposed decision and order with the Board pursuant to PERB rules.

Oral arguments were presented to the Board on September 26, 1994 by counsel: Garry D. Woodward for Taylor and Jenifer Weeks-

Karns for the State. Both parties filed briefs. We have reviewed the case upon the record submitted to the ALJ. Pursuant to Iowa Code section 17A.15(3), upon review we possess all powers which we would have possessed had we elected, pursuant to PERB rule 2.1, to preside at the evidentiary hearing in the place of the ALJ.

Based upon our review of the record before the ALJ, and having considered the parties' briefs and oral arguments, we make the following findings of fact and conclusions of law.

FINDINGS OF FACT

The ALJ's findings of fact, as set forth in his proposed decision and order, are fully supported by the record. On review, Taylor has alleged no specific errors in the ALJ's findings of fact. We hereby adopt the ALJ's factual findings as our own and they are, by this reference, incorporated herein and made a part hereof as though fully set forth.

CONCLUSIONS OF LAW

The ALJ's conclusions of law, as set forth in his proposed decision and order, are correct. We have reviewed Taylor's arguments on review and find them to be without merit. We hereby adopt the ALJ's conclusions of law as our own and they are, by this reference, incorporated herein and made a part hereof as though fully set forth.

In view of our adoption of the ALJ's findings and conclusions, it follows that we concur in the result reached by the ALJ.

IT IS THEREFORE ORDERED that Taylor's petition for review is denied, and his underlying state employee grievance appeal is hereby dismissed.

DATED at Des Moines, Iowa this 6th day of January, 1994.

PUBLIC EMPLOYMENT RELATIONS BOARD

Richard R. Ramsey, Chairman

Dave Knock, Board Member

M. Sue Warner, Board Member

STATE OF IOWA
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JOHN N. TAYLOR, SR., Appellant,	)	
and	)	CASE NO. 92-MA-08
STATE OF IOWA (DEPARTMENT OF EMPLOYMENT SERVICES), Appellee.	)	

PROPOSED DECISION AND ORDER

Appellant John N. Taylor, Sr. has filed a state employee grievance appeal with the Public Employment Relations Board (PERB) pursuant to Iowa Code §19A.14(1) and 621 I.A.C. 11.2(19A,20). Taylor's appeal, as amended, alleges that the state failed to substantially comply with §§19A.9(1), (13), (14) and (20),[1] and with Iowa Department of Personnel (IDOP) rules 581-12.1 et seq. in connection with a 1991 reduction in force which ultimately resulted in Taylor's loss of his position as an Iowa Department of Employment Services (DES) Job Service Manager.

An evidentiary hearing on Taylor's appeal was held before me at PERB's offices in Des Moines, Iowa, on August 31 and September 24, 1993. The parties were represented by counsel, Garry D. Woodward for Appellant and Jenifer Weeks-Karns for Appellee.

Having studied the record and the parties' respective briefs, the following findings of fact and conclusions of law are proposed.

[1]These and all subsequent statutory citations are to the Code of Iowa (1991).

FINDINGS OF FACT

DES is an agency of state government with an internal organization comprised of three major divisions: Job Service, Labor Services, and Industrial Services. The Division of Job Service is subdivided into bureaus, one of which is the Field Operations Bureau (FOB).

In January, 1986, Taylor was hired by DES as a Job Service Interviewer I at its Dubuque office, a position within the FOB. Although the record is not clear, it appears that Taylor had advanced to the classification of Job Service Interviewer II by May, 1989, at which time he became a Job Service Manager at the Job Service Division's Clinton office. Although still serving within the FOB, Taylor's new position was managerial or supervisory in nature and he was thus no longer included within any collective bargaining unit or subject to the terms of any collective bargaining agreement.

At the time of Taylor's promotion and assignment to Clinton, the FOB was internally organized as 12 districts. The Clinton Job Service office, which Taylor supervised, was within a district headquartered in Davenport. The district was supervised by Joe Keeney, a Public Service Executive III (PSE3), who served as Taylor's immediate superior.

A primary function of the FOB is the statewide operation of various federally-funded employment programs. FOB personnel are paid almost entirely with funds contributed by the federal government. Although federally-provided funds may be expended only

in furtherance of the program for which the funds were earmarked, the federal funds may be and are used to pay both contract-covered and non-contract DES employees involved in the operation of the designated program. The federal contribution is finite, however, and additional federal funds are not provided to DES when employees involved in the operation of federal programs are awarded pay increases. Like other FOB personnel, Taylor was paid primarily with federal funds in all his DES positions.

In January, 1990, Cynthia P. Eisenhauer succeeded Richard Freeman as DES Director. One of Eisenhauer's early projects as director was to review and evaluate FOB's organizational structure. By October, 1990, a plan for the initial step in a FOB reorganization had emerged, whereby the 12 FOB districts would be consolidated into four regions. While each district had been designed to be supervised by a PSE3, the new regions would each be managed by a PSE4, a higher-level executive.

In February, 1991, the FOB reorganization began with the implementation of the new regional structure. The four PSE4 regional supervisor positions were filled, some apparently through the promotion of PSE3s who had formerly served as district supervisors. Although a complete reorganization plan had not yet been formulated, reorganization study continued.

In May, 1991, the chief of the FOB made recommendations for further bureau reorganization, which included the assignment of one PSE3 to each of the regional supervisors to serve as his or her deputy. The recommendations would have the effect, among others,

of reducing the number of executive-level field supervisory positions from 12 (all PSE3s) under the old district-based organization to eight (four PSE4s and four PSE3s) under the new organizational structure.

In late February and early March, 1991, various arbitrators serving pursuant to Iowa Code §20.22 had issued awards resolving collective bargaining impasses between the state and a number of unions representing contract-covered state employees. In each case, the arbitrator had awarded a wage increase in excess of what the state had offered during negotiations. In May, 1991, the legislature voted to appropriate money to fund the arbitrators' awards and to provide a pay increase for non-contract employees, but the Governor struck the appropriation by exercising an item veto, which was not overridden by the legislature.

The unions began litigation to enforce the arbitration awards in June, 1991. Recognizing that an adverse result in the litigation could require the state to implement the arbitrators' wage awards, and believing that there were insufficient funds available to do so at current staffing levels, the Iowa Department of Management (DOM), presumably at the Governor's direction, instructed all agencies to reduce their respective budgets by 3.25%. DES was able to comply with the 3.25% budget-reduction directive by eliminating vacant positions, thus avoiding immediate layoffs. However, DOM also instructed agencies to prepare contingency reduction in force (RIF) plans which, if implemented, would reduce the number of state employees, thus making funds

otherwise devoted to their salaries and benefits available for the satisfaction of the arbitration awards should the unions prevail in the ongoing litigation. Agencies were instructed that the RIF plans were to include both contract-covered and non-contract positions, regardless of their funding source. DES was instructed to devise a plan which would result in approximately $1.2 million in salary and benefit reductions, over $300,000 of which was to come from the elimination of non-contract positions.

DES prepared a RIF plan as instructed, but in an attempt to avoid layoffs also submitted to DOM a plan by which it believed it could meet its $1.2 million cost-reduction goal without any reductions in force. The initial RIF plan would have eliminated nearly 40 occupied DES positions in four phases, the last of which included elimination of four PSE3 positions in the FOB, consistent with the reorganization plan which had previously been recommended.

Although the record is not clear as to why the initial RIF plan was never acted upon, it may have been because Eisenhauer was actively engaged in maneuvers designed to avoid layoffs entirely or to reduce the number which would be required. Eisenhauer was, however, ultimately directed to combine layoffs with other spending reductions. She directed her bureau chiefs and personnel assistant to identify the job classifications in which the reductions would occur.

As noted above, FOB's chief had already recommended the elimination of four PSE3 positions in connection with the bureau's ongoing reorganization. Consequently, when required by Eisenhauer

to identify positions for RIF, the bureau chiefs selected those positions, among others, for reduction.

Procedures for the RIF of non-contract employees such as the PSE3s are set forth in IDOP's rules, which at the time provided that RIFs were to be by class, that the RIF "unit" was to be by agency organizational unit or agencywide (as approved by the IDOP director), and that reductions were to be accomplished pursuant to a RIF plan developed by the agency and submitted to the IDOP director for approval in advance of its effective date.

At the recommendation of Eisenhauer's personnel assistant, a RIF plan for the PSE3 class was developed which established three separate RIF units, each of which coincided with an agency organizational unit (one of the four FOB regions), rather than agencywide. At the time, eight PSE3s were operating within the four FOB field regions--two in region 1, two in region 2, one in region 3 and three in region 4. Because DES's reorganization required only one PSE3 in each region, and only one was then assigned to region 3, that region was not included in the RIF plan, which provided that one PSE3 was to be reduced in both region 1 and 2, and that two would be reduced in region 4.

In order to determine which individuals would be laid off pursuant to the plan, DES calculated the respective "retention points" of the PSE3s in each of the layoff units.[2] In the layoff

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[2]Retention points are computed pursuant to a formula which then appeared in IDOP subrule 581-11.3(3), which factors in both an employee's length of service and the results of the employee's periodic performance evaluations.

unit which coincided with region 4, the one within which Taylor was employed, the retention point calculation revealed that Keeney (809 points) and Lawrence D. Hendrichsen (774 points) would be laid off, and that Edward McGee (867 points) would be retained. Like determinations were made for the other RIF units in which PSE3s would be reduced.

On August 8, 1991, Eisenhauer submitted the RIF plan for the FOB to IDOP. The next day, following review of the plan by IDOP staff, the plan was approved by IDOP Director Linda Hanson and subsequently by David Roederer of the Governor's office. The approved plan, including the retention point listing, was posted and written notices of layoff were forwarded to the affected employees on August 9, 1991. Each notice advised the employee of his or her layoff effective at the close of business September 10, 1991, and advised each of any bumping rights the employee possessed.[3]

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[3]"Bumping" refers to the ability of an employee affected by a RIF to elect to assume the position of a lower-level employee in lieu of layoff. Pursuant to IDOP subrule 581-11.3(5), the movement in lieu of layoff may be to a lower class in the same series (i.e., Job Service Interviewer II to Job Service Interviewer I) or to a class formerly held by the bumping employee (or its equivalent if the class has been retitled) in which the employee had nontemporary status. Whether an employee may in fact bump to another class in lieu of layoff is also dependent upon the employee's retention point total, for bumping may not occur if it would cause the displacement of an employee with more total retention points than those possessed by the employee seeking to exercise bumping rights. Where more than one potential bumping "victim" possesses fewer retention points than the employee exercising bumping rights, the employee with the fewest total retention points suffers the displacement.

Keeney was advised that he possessed bumping rights to a position within the Job Service Manager classification in region 4, or to a Job Service Interviewer I or II position statewide.[4] Keeney subsequently chose to exercise his right to bump into the classification of Job Service Manager within FOB region 4.

At the time, 12 Job Service Managers were employed in FOB region 4. In order to determine whose position Keeney would assume through the exercise of his bumping rights, DES calculated the retention point totals of the incumbent Job Service Managers. Pursuant to IDOP rules, Keeney's bump would affect the Job Service Manager within region 4 who possessed the fewest retention points, assuming Keeney's point total (809) was greater. This calculation revealed that Taylor, at 162 points, possessed the fewest retention points of the Job Service Managers within the region.

Consequently, on August 20, 1991, Taylor was given written notice that he would be laid off from his Job Service Manager position effective at the close of business on September 18, 1991. The notice also advised Taylor, inter alia, of his right to bump into the classification of Job Service Interviewer I or II,

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[4]Keeney's right to bump into a position within the Job Service Manager class (a supervisory, non-contract classification) was limited to region 4 because, in RIF situations where a non-contract employee seeks to bump into another non-contract position, the bump may be exercised only to a position within the previously-defined RIF unit. Keeney's bumping rights to a position in the contract-covered classifications of Job Service Interviewer I and II were statewide, however, because when a non-contract employee seeks to bump to a contract-covered position, the bump is exercised within the layoff unit defined by the collective bargaining agreement applicable to the contract-covered position, which in this case provided for a statewide layoff unit.

statewide.[5] On August 22 Taylor served notice of his election to bump the Job Service Interviewer II with the fewest retention points. Although the record does not reveal the identity of the employee displaced by Taylor's bump, the exercise of his bumping rights resulted in Taylor assuming a Job Service Interviewer II position in the Maquoketa office in September, 1991.[6]

Although the record does not reveal precisely how Taylor's subsequently-filed grievance proceeded through the uniform grievance procedure set forth in IDOP rules, it is clear that Taylor's grievance was ultimately denied by the IDOP directors' designee on September 26, 1991. Taylor's appeal to PERB was filed October 7, 1991.[7] As subsequently amended and clarified, Taylor's appeal alleges that the state failed to substantially comply with §§19A.9(1), (13), (14), and (20), and with IDOP rules 581-12.1 et seq.

Iowa Code §19A.9 provides, in relevant part:

> 19A.9 Rules adopted.
> The personnel commission shall adopt and may amend rules for the administration and implementation of this chapter in accordance with chapter 17A. The director shall prepare and submit proposed rules to the commission. Rulemaking shall be carried out with due regard to the terms of collective bargaining agreements. A rule shall not supersede a provision of a collective

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[5]See footnote 4, supra, regarding the applicable bumping unit for non-contract employees bumping to contract-covered positions.

[6]In early 1993, Taylor bid for and was hired to fill a vacant Job Service Interviewer II position in the Davenport office--a position he continued to occupy on the date of hearing.

[7]Portions of Taylor's appeal alleging violations of §§19A.18, 19B.2 and 19B.6 were dismissed upon the state's motion on April 27, 1992.

bargaining agreement negotiated under chapter 20. The rules shall provide:

1. For the preparation, maintenance, and revision of a position classification plan from a schedule by separate department for each position and type of employment not otherwise provided for by law in state government for all positions in the executive branch, excluding positions under the state board of regents, based upon duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class, in the same geographical area. After the classification has been approved by the commission, the director shall allocate the position of every employee in the executive branch, excluding employees of the state board of regents, to one of the classes in the plan. Any employee or agency officials affected by the allocation of a position to a class shall, after filing with the director a written request for reconsideration in the manner and form the director prescribes, be given a reasonable opportunity to be heard by the director. An appeal may be made to the commission or to a qualified classification committee appointed by the commission. An allocation or reallocation of a position by the director to a different classification shall not become effective if the allocation or reallocation may result in the expenditure of funds in excess of the total amount budgeted for the department of the appointing authority until approval has been obtained from the director of the department of management.

When the public interest requires a diminution or increase of employees in any position or type of employment not otherwise provided by law, or the creation or abolishment of any position or type of employment, the governor, acting in good faith, shall so notify the commission. Thereafter the position or type of employment shall stand abolished or created and the number of employees therein reduced or increased. Schedules of positions and types of employment not otherwise provided for by law shall be reviewed at least once each year by the governor.

. . .

13. For establishing in co-operation with the appointing authorities a system of service records of all employees in the executive branch of state government, excluding employees of the state board of regents, which service records shall be considered in determining salary increases provided in the pay plan; as a factor in promotion tests; as a factor in determining the order of layoffs because of lack of funds or work and in reinstatement: as a factor in demotions, discharges, or transfers; and for the regular evaluation, at least

annually, of the qualifications and performance of those employees.

14. For layoffs by reason of lack of funds or work, or organization, and for re-employment of employees so laid off, giving primary consideration in both layoffs and re-employment to performance record and secondary consideration to seniority in service. Any employee who has been laid off may keep the employee's name on a preferred employment list for one year, which list shall be exhausted by the agency enforcing the layoff before selection of an employee may be made from the register in the employee's classification. Employees who are subject to contracts negotiated under chapter 20 which include layoff provisions shall be governed by the contract provisions.

. . .

20. Notwithstanding any provisions to the contrary, no rule or regulation shall be adopted by the department which would deprive the state of Iowa, or any of its agencies or institutions of federal grants or other forms of financial assistance.

IDOP rules 581-12.1 et seq., at the time of Taylor's displacement as a Job Service Manager, set forth, inter alia, procedures for the filing of non-contract grievances by state employees.[8]

Iowa Code §19A.14(1), pursuant to which Taylor's PERB appeal was filed, provides:

19A.14 Grievances and discipline resolution.

1. *Grievances.* An employee, except an employee covered by a collective bargaining agreement which provides otherwise, who has exhausted the available agency steps in the uniform grievance procedure provided for in the department of personnel rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director. The director shall respond within thirty calendar days following receipt of the third step grievance.

If not satisfied, the employee may, within thirty calendar days following the director's response, file an

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[8]These rules are extensive, and need not be set forth here.

> appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act. Decisions rendered shall be based upon a standard of substantial compliance with this chapter and the rules of the department of personnel. Decisions by the public employment relations board constitute final agency action.
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> For purposes of this subsection, "*uniform grievance procedure*" does not include procedures for discipline and discharge.

CONCLUSIONS OF LAW

Administrative agencies, such as PERB, have only such authority as is specifically conferred upon them by the legislature or necessarily inferred from the statutes which created them. See, e.g., Iowa Power & Light Co. v Iowa State Commerce Comm'n., 410 N.W.2d 236 (Iowa 1987).

PERB's authority to decide the non-contract grievance appeals of state employees such as Taylor arises from §20.1(4) and §19A.14(1). Section 20.1(4) notes the Board's power and duty to adjudicate state merit system grievances, while §19A.14(1), quoted above, provides further detail concerning the scope of that authority, the manner in which it is exercised and the procedures which are to be employed.

Particularly significant is the §19A.14(1) directive that PERB's decisions in grievance appeals "shall be based upon a standard of substantial compliance with this chapter and the rules of the department of personnel." Under this standard, for an employee to prevail in a grievance appeal before PERB, he or she must establish a lack of substantial compliance by the state with chapter 19A or IDOP rules.

While entertaining merit grievance appeals, PERB is thus a tribunal of severely limited jurisdiction, rather than a labor court of general jurisdiction empowered to remedy violations of multiple species of law. Although the state's violation of constitutional provisions, statutes other than Iowa Code chapter 19A, or rules other than those of IDOP may well be remediable through actions in other forums, PERB is simply without authority to grant relief in grievance appeals unless it is established that there has been a lack of substantial compliance with chapter 19A or IDOP's rules.

The root of Taylor's complaint, intertwined throughout his various claims, is that DES's establishment (and the IDOP director's approval) of multiple layoff units coinciding with DES regions unfairly subjected him to bumping. Taylor would have preferred that DES implement an agencywide layoff unit, which would have meant that the four PSE3s who were reduced would have been required to bump into a statewide pool of employees, rather than into the more limited pool of employees in the DES region in which the PSE3 had been serving. Since one Job Service Manager with fewer retention points than Taylor existed in another DES region, Taylor points out that a statewide layoff unit may have resulted in Keeney's bump displacing that individual rather than him.

As one prong of his attack on the RIF of the PSE3s which ultimately resulted in his displacement, Taylor alleges a lack of substantial compliance with §19A.9(1). He argues that §19A.9(1) requires that IDOP's rules be equitably applied by job class in the

same geographical area, and maintains that because DES layoff units were defined by organizational units, and not by one contiguous geographical area, the procedure failed to comply with §19A.9(1).

Section 19A.9(1), previously quoted in its entirety, requires the adoption of rules providing for the preparation, maintenance and revision of a position classification plan, so that the same qualifications may be required for, and the same schedule of pay may be applied to all positions in the same class, in the same geographical area. Taylor has not alleged, much less established, that the state has failed to adopt such rules or has failed to implement a position classification plan. The §19A.9(1) language which Taylor focuses upon, concerning equitable application to all positions in a class in the same geographical area, does not address or appear to apply to individual RIF plans, but instead addresses the statewide position classification plan which IDOP administers. Section 19A.9(1) does not require the adoption of rules which mandate statewide layoff units in all cases.[9] I conclude that Taylor has failed to establish the state's noncompliance with §19A.9(1) in connection with any aspect of the RIF plan which ultimately resulted in his displacement.

Taylor also claims a lack of substantial compliance with §19A.9(13), previously quoted, which requires the adoption of rules establishing a system of employee service records which are to be

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[9]Although the final (unnumbered) paragraph of §19A.9(1) does address the diminution or increase of employees in any position, requiring the Governor to notify the personnel commission when the public interest requires such action, Taylor has neither alleged nor established the lack of such notice by the Governor.

considered as a factor in determining the order of layoffs because of lack of funds or work.

Taylor does not argue that no such rules have been adopted. Instead, his argument appears to be that the RIF was for the stated purpose of reducing current expenditures so that money would be available to fund the arbitrated wage increase for contract-covered employees should the unions prevail in the ongoing litigation. Since the "savings" were to be used to finance raises for contract-covered employees, and since, according to Taylor, federal funds cannot be used to pay collectively-bargained wage increases, the RIF of federally-funded PSE3s could not generate savings which could legally be used for the plan's stated purpose. Taylor thus views the plan as fatally flawed.

I find no support for this theory. While the record will support findings that the RIF was based upon an anticipated lack of funds, that the elimination of the PSE3s (which ultimately filtered down and cost Taylor his position) resulted in at least a temporary reduction in the amount of federal funds expended, and that the "savings" were intended to finance pay raises for contract-covered employees, there is not a shred of evidentiary support for Taylor's frequently-stated premise that federal funds could not be used for such a purpose. He has pointed to nothing in the record which supports this supposed fact, and I have found otherwise.[10] Taylor has failed to establish a lack of substantial compliance with §19A.9(13).

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[10]See pages 2-3, supra.

connection with the RIF, and that it is thus not known whether the state was deprived of federal funds by the RIF.

I do not share Taylor's interpretation of §19A.9(20), but instead view the provision as an overall prohibition upon the adoption of IDOP rules which operate to deprive the state of federal grants or other assistance. In order to establish a failure to substantially comply with this provision, an appealing employee would have to show that a rule or regulation was adopted which in fact deprived the state of federal funds.

Even ignoring the fact that the challenged RIF plan is not a "rule or regulation" within the meaning of §19A.9(20), Taylor's argument must be rejected because he has failed to establish that the plan deprived the state, or any of its agencies or institutions, of federal grants or other forms of federal assistance. The appealing employee, not the state, bears the burden of proof in grievance appeal proceedings such as this.

In various pre-hearing filings, Taylor cites IDOP rules 581-12.1 et seq. in connection with his assertion that the application of IDOP rules deprived him of procedural and substantive due process to which he was entitled before his layoff as a Job Service Manager. His post-hearing filings contain no reference to those rules, but do assert procedural and substantive due process claims, as well as a previously-unexpressed equal protection claim.

IDOP rules 581-12.1 et seq. contain the state non-contract employee grievance procedure, as well as procedures for employee appeals of position classification decisions. Taylor has not

established, and apparently does not now even assert, a lack of substantial compliance with these rules.

Instead, Taylor's theory apparently is that since DES knew that the RIF plan would ultimately impact him, and since IDOP rules did not require that the plan be personally served upon him before it affected him, the rules suffer from various constitutional infirmities which require invalidation of the plan and his reinstatement as a Job Service Manager.

The record does not convincingly support the proposition that DES knew how bumping rights would in fact be exercised as a result of the RIF plan's implementation, and I have made no such finding. Even if it did, however, Taylor would not be entitled to relief in this forum. PERB is empowered only to adjudicate disputes concerning whether there has been substantial compliance with chapter 19A or IDOP rules, not disputes over the constitutional validity of such provisions.

Having endeavored to consider all of Taylor's assertions and theories, and having examined all of the chapter 19A and IDOP rule provisions he claims have been breached, I conclude that he has failed to establish the state's lack of substantial compliance with any of them, and consequently propose the following:

ORDER

The above-captioned state employee grievance appeal is DISMISSED.

DATED at Des Moines, Iowa this 7th day of April, 1994.

Jan V. Berry,
Administrative Law Judge